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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Brian Kirby, No. CV-23-02619-PHX-SHD
10 Plaintiff,
11 v.
12 Ryan Thornell, et al,
13 Defendant.
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ORDER

15 Pending before the Court is a Report and Recommendation (“R&R”) from the
16 Magistrate Judge recommending that Plaintiff’s Complaint be dismissed without prejudice
17 as to Defendant Bianca Mocha under Fed. R. Civ. P. 4(m) and Fed. R. Civ. P. 41(b). (Doc.
18 93.) On September 20, 2024, the United States Marshals Service attempted service of
19 Defendant Mocha and were advised that Defendant Mocha was no longer employed by
20 Naphcare. (Doc. 53 at 1.) On August 18, 2025, the Court issued an order requiring that
21 the parties file a status report as to Defendant Mocha within three days. (Doc. 90.)
22 Defendants filed a Status Report on August 20, 2025, affirming that Defendant Mocha was
23 never properly or timely served. (Doc. 91 at 3.) The Court then ordered that Plaintiff show
24 cause within ten days as to why this matter should not be dismissed as to Defendant Mocha
25 for failure to serve and advised Plaintiff that a failure to comply with the Court’s Order
26 may result in dismissal of the case. (Doc. 92.) Plaintiff did not respond to the Court’s
27 Order.
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1 On September 22, 2025, the Magistrate Judge issued the pending R&R. (Doc. 93.)
2 No objections to the R&R have been filed and the deadline to file has expired. The R&R
3 advised Plaintiff:

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5 The parties shall have 14 days from the date of service of a copy of this
6 Report and Recommendation within which to file specific written objections
7 with the Court. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(b) and 72.
8 Thereafter, the parties have 14 days within which to file a response to the
9 objections. Failure to timely file objections to the Magistrate Judge's Report
10 and Recommendation may result in the acceptance of the Report and
11 Recommendation by the district court without further review. *See United*
12 *States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

13 (Doc. 93 at 4.)

14 This Court “may accept, reject, or modify, in whole or in part, the findings or
15 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). As the R&R
16 indicated, it is “clear that the district judge must review the magistrate judge’s findings and
17 recommendations *de novo* if objection is made, but not otherwise.” *United States v. Reyna-*
18 *Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (emphasis in original); *Schmidt v.*
19 *Johnstone*, 263 F.Supp.2d 1219, 1226 (D. Ariz. 2003) (“*Following Reyna-Tapia*, this Court
20 concludes that *de novo* review of factual and legal issues is required if objections are made,
21 ‘but not otherwise.’”); *Klamath Siskiyou Wildlands Ctr. v. U.S. Bureau of Land Mgmt.*, 589
22 F.3d 1027, 1032 (9th Cir. 2009) (the district court “must review *de novo* the portions of
23 the [Magistrate Judge’s] recommendations to which the parties object.”). District courts
24 are not required to conduct “any review at all . . . of *any issue* that is not the subject of an
25 objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (emphasis added); *see also* 28 U.S.C.
26 § 636(b)(1) (“[T]he court shall make a *de novo* determination of those portions of the
27 [report and recommendation] to which objection is made.”).

28 No objections having been received,

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1 **IT IS ORDERED** that the R&R (Doc. 93) is accepted. The Complaint is dismissed,
2 without prejudice, as to Defendant Bianca Mocha under Fed. R. Civ. P. 4(m) and Fed. R.
3 Civ. P. 41(b). The Clerk of Court shall enter judgment accordingly and, there being no
4 remaining Defendants, close this case.

5 Dated this 21st day of October, 2025.

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11 Honorable Sharad H. Desai
12 United States District Judge

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